

Filed for intro on 02/20/97  
HOUSE BILL 1238 By  
Newton

SENATE BILL 1679  
By Fowler

AN ACT to amend Tennessee Code Annotated, Section 63-1-117 relative to access to patient records by the department of health and the access to information in disciplinary investigative files.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 63-1-117(a)(1) is amended by inserting the words and punctuation "all health care practitioners as set out in this Title," after the words and punctuation "services,"

SECTION 2. Tennessee Code Annotated, Section 63-1-117(a)(2) is amended by deleting the subsection in its entirety and by substituting therefor the following:

Except for the release of any information guaranteed confidential for purposes of drug and alcohol rehabilitation by 28 C.F.R. SS 35.101 et seq., any representative of any health care practitioner, any health care practitioner or any health care facility set out in this section furnishing records to a duly authorized representative of the division shall be immune from liability to any patient, individual or organization for furnishing such information, data, reports or records, if the information or other records or documents provided were provided or created in good faith and without malice and on the basis of facts reasonably known or reasonably believed to exist. Acting on behalf of a board, the director of the division and any appointed board member under this title shall have the power to issue an investigative subpoena, upon reasonable cause being shown that the persons or materials being subpoenaed are relevant to

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an ongoing investigation or contested case, testimony or records, upon the filing of a complaint with the Division of Health Related Boards, prior to the filing of a notice of charges. Judicial review of any action taken pursuant to this chapter shall lie with the Davidson County Chancery Court. For purposes of the section, "records" shall mean "medical records" as defined in TCA 63-2-101(c)(2).

SECTION 3. Tennessee Code Annotated, Sections 63-1-117(b)(1) and 63-1-117(b)(2) are amended by deleting those subsections in their entirety and substituting instead the following new subsections:

(b)(1) All materials, documents and other matters relating to, compiled or created pursuant to an investigation conducted by the division, against any practitioner of the healing arts and the various branches thereof, shall be inaccessible to the public until the filing of a notice of charges. After the filing of a notice of charges, only the information and those materials and documents upon which the charges are based are available for disclosure.

(2) The previous subsection notwithstanding, the identifying information of the following, as well as all division investigator-created documents and reports, shall remain confidential at all times unless and until introduced in the proceedings:

- (A) a complainant's identity;
- (B) the identity of any witness who requests anonymity;
- (C) a patient's identity; and
- (D) medical records.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.